

REMARKS

1. Restriction to One of Invention Groups I and II.

In response to the Restriction requirement set forth in the Office Action mailed January 12, 2006, Applicants, as required under 37 C.F.R. 1.143, provisionally elect Invention Group I, into which Examiner has categorized claims 1-12 and 19. Applicants reserve the right to prosecute the claims of the remaining Invention Groups in one or more divisional applications.

2. Further Restriction of Sequences in Invention Group I.

In the Office Action, Examiner is requiring that Applicants elect a primer pair to be search in regard to the claims drawn to individual sequences. Examiner's demand is based on a conclusion that each primer is drawn to a distinct nucleotide sequence, and that these nucleotide sequences constitute independent and distinct inventions.

Applicants respectfully disagree with Examiner's requirement that an election of a specific primer pair must be made. Each of independent claims 1 and 2 call for a primer selected from a group of seven different nucleotide sequences (totaling 14 different nucleotide sequences between claims 1 and 2). Claims 3-12 and 19 call for a primer pair wherein one primer of the pair is selected from the same sequences listed in claim 1 and the other primer of the pair is selected from the same sequences listed in claim 2.

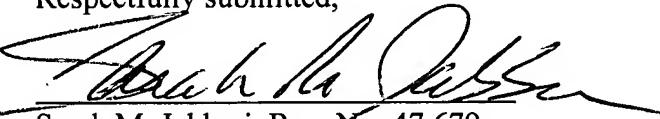
Applicants respectfully draw Examiner's attention to MPEP §§803.04 and 2434 which state that "[t]o further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the *>Director< has decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application. See *Examination of Patent Applications Containing Nucleotide Sequences*, 1192 O.G. 68 (November 19, 1996)." These sections of the MPEP further note that "[i]t has been determined that normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction. In addition to the specifically selected sequences, those sequences which are patentably indistinct from the selected sequences will also be examined."

Because the claims of elected Invention Group I, namely claims 1-12 and 19, are drawn to nucleotide sequences, Applicants believe that the subject matter of these claims fall within the Director's waiver of the requirements of 37 C.F.R. §1.141. Claims 1-12 and 19, combined, list 14 nucleotide sequences. Accordingly, Applicants respectfully assert that ten of these fourteen sequences in the elected claims should be examined in this single application. Accordingly, Applicants select SEQ. ID. NOS. 1-4, 6 and 8-12 for examination in this application and respectfully request that Examiner reconsider and withdraw this Restriction requirement.

Although Applicants disagree with Examiner's requirement to elect a primer pair, Applicants have provisionally elected the primer pair of SEQ. ID. NOS. 1 and 8, in order to provide a complete response in compliance with 37 C.F.R. §1.143.

If any issues remain that can be resolved by telephone, Examiner Salmon is invited to call the undersigned attorney at (317) 237-1130.

Respectfully submitted,



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